

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

RIEPING, Mechthild

Appl. No.: 10/733,776

Filed: December 12, 2003

Issued as: US 7,638,313

Issue Date: December 29, 2009

For: **Process for the Production of  
L-Amino Acids Using Strains of the  
Enterobacteriaceae Family**

Art Unit: 1656

Examiner: D. Steadman

Atty. Dkt.: 7601/80921

Conf. #: 9536

### Request for Reconsideration of Patent Term Adjustment Calculation

Commissioner of Patents  
U.S. Patent and Trademark Office  
Randolph Building **MS Patent Ext.**  
401 Dulany Street  
Alexandria, VA 22314

Sir:

At the time that the above application was allowed, the PTO calculated that it was entitled to no additional days of patent term. Applicant does not dispute this calculation. However, Applicant believes that it may be entitled to additional term based upon the following considerations:

- 1) The Application was filed on December 12, 2003.
- 2) 3 years from the filing date was December 12, 2006.
- 3) The patent issued on December 29, 2009.
- 4) There is no overlap between the term adjustment granted based upon the period extending from 14 months after the application was filed until the first Office Action was mailed (February 25, 2005) and the time extending from the three year date until the date of issuance.

Given the above facts Applicant believes that it should be entitled to additional term equal to the period extending from December 12, 2006 until December 29, 2009 (believed to be an additional 1096 days). Applicant bases this conclusion on the district court decision in *Wyeth v. Dudas* 88 USPQ2d 1538 (D. DC Sept. 30 2008).

### **Conclusion**

As discussed above, Applicant believes that the above-captioned application is entitled to an increase in patent term of 1096 days and respectfully request that such adjustment be made.

Applicant has electronically authorized the PTO to charge Applicant's credit card the fee for filing this Request, believed to be \$200 as set forth in 37 C.F.R. § 1.18(e). The Director is hereby authorized to charge any additional fees that may be required, or credit any overpayment, to our Deposit Account No. 50-4056 under Order Number 7601/80921.

If a phone call may help to expedite this matter, Applicant's undersigned attorney may be reached at (240) 683-6165.

Respectfully submitted,  
Law Office of Michael A. Sanzo, LLC

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